

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

JUAN R. VILLEGRAS
Plaintiff

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vs.

ARMANDO GONZALEZ,
TRANSPORTES ROLESA, SA DE CV
AND ROLESA TRANSPORT, LLC
Defendants

CIVIL ACTION NO. _____

DEFENDANTS ARMANDO GONZALEZ AND
TRANSPORTES ROLESA, SA DE CV'S NOTICE OF REMOVAL

To: THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS,
MCALLEN DIVISION:

Defendants **ARMANDO GONZALEZ and TRANSPORTES ROLESA, SA DE CV**
(hereinafter collectively referred to as "Defendants") files this notice of removal pursuant
to 28 U.S.C. § 1446(a).

I. Introduction

1.1 Plaintiff is Juan R. Villegas (hereinafter "Plaintiff"), a Untied States citizen
and Texas resident.

1.2 Defendants Transportes Rolesa, SA de CV ("Defendant Transportes") and
Armando Gonzalez ("Defendant Gonzalez") are citizens, entities, and/or residents of the
country of Mexico. They do not have a place of employment or place of business in
Texas.

1.3 Defendant Rolesa Transport, LLC is an improper party to this lawsuit.
Plaintiff cannot prove now or in the future that it was involved in the incident made the

basis of this lawsuit or that it in any way caused or contributed to said incident. Defendant Rolesa Transport, LLC was fraudulently joined in this lawsuit in an effort to defeat this court's federal diversity jurisdiction.

1.4 According to Hidalgo County Clerk records, Plaintiff filed his suit against Defendants on May 3, 2022. This cause is currently pending in the 370th Judicial District Court of Hidalgo County, Texas under Cause No. C-1612-22-G. Said suit is styled *Juan R. Villegas v. Armando Gonzalez, Transportes Rolesa, SA de CV, and Rolesa Transport, LLC*. Citation was issued to Defendants on June 9, 2022. As of this filing, Defendants have not been properly served with service of process.

1.5 Defendant Gonzalez is a Mexican citizen who drives tractor-trailers in the United States and Mexico. He does not reside in the United States, and he does not have a designated place of employment in the United States.

1.6 Defendant Transportes is a Mexican company that employed Defendant Gonzalez to drive a tractor-trailer in Mexico, and to the United States of America as a B-1 driver. It does not have a designated place of business in the United States. It owns no real estate in the United States of America.

1.7 In the interests of speed and efficiency, Defendants elect to waive formal service effective as of the date of this filing. Consequently, Defendants file this notice of removal within the 30-day time period required by 28 U.S.C. 1446(b). *Bd. Of Regents of Univ. of Tex. Sys. V. Nippon Tel. & Tel. Corp.*, 478 F.3d 274, 278 (5th Cir. 2007); see also *Monterey Mushrooms, Inc. v. Hall*, 14 F. Supp. 2d 988, 991 (S.D. Tex. 1998) (the statutory period for removal begins to run from the time a defendant actually receives a copy of the pleadings and not when the statutory agent receives process).

II. Basis for Removal

2.1 Removal is proper because Plaintiff joined Rolesa Transport, LLC solely to defeat diversity jurisdiction. See *Davidson v. Ga-Pac., L.L.C.*, 819 F.3d 758, 765 (5th Cir. 2016). There is no reasonable basis for believing that Plaintiff could recover from Rolesa Transport, LLC in state court. *Chambers v. HSBC Bank USA, N.A.*, 796 F.3d 560, 564-65 (6th Cir. 2015); see *Moris v. Princess Cruises, Inc.*, 236 F.3d 1061, 1067-68 (9th Cir. 2001).

2.2 Removal is proper because there is complete diversity between the parties. 28 U.S.C. § 1332(a); *Johnson v. Columbia Props. Acnchorage, L.P.*, 437 F.3d 894, 899-900 (9th Cir. 2006). Plaintiff is a U.S. citizen and resident of the State of Texas. Defendants Transportes and Defendant Gonzalez are Mexican citizens, reside in Mexico and have no residence, office or place of business in the United States. See 28 U.S.C.A. § 1441(a); *Barragan v. Warner-Lambert Co.*, 216 F. Supp. 2d 627, 630 (W.D. Tex. 2002). Additionally, the amount in controversy exceeds \$75,000.00, excluding interest and costs. 28 U.S.C. § 1332(a); *Andrews v. E.I. du Pont de Nemours & Co.*, 447 F.3d 510, 514-15 (7th Cir. 2006).

2.3 Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the suit has been pending is located in this district.

2.4 Defendants will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

2.5 Pursuant to Local Rule LR81 of the United States District Court for the Southern District of Texas, Defendants provide a copy of the docket sheet, if any, process, if any, pleadings, and any signed orders served in the State Court action, together with

an index of matters being filed, and the notice served upon Plaintiff's attorney of record that this matter was removed. These documents are attached as "**EXHIBIT 1**". Also pursuant to LR81, an Index of Attorneys/Parties is attached as "**EXHIBIT 2**."

2.6 All Defendants consent to this removal.

III. Prayer

3.1 In accordance with the above, Defendants pray that this Court enter such further Orders and grant such further relief as may be necessary to secure removal herein and to prevent further proceedings in the 370th Judicial District Court of Hidalgo County, Texas and for such other and further relief, general and special, legal and equitable, to which they may show themselves to be justly entitled.

Respectfully submitted,

By: /s/ James H. Hunter, Jr.

James H. Hunter, Jr.,
Attorney-in-Charge,
State Bar No. 00784311
Federal I.D. No. 15703
55 Cove Circle
Brownsville, Texas 78521
(956) 542-4377 (Telephone)
(956) 542-4370 (Facsimile)
E-Mail: jim.hunter@roystonlaw.com
ATTORNEYS FOR DEFENDANTS
ARMANDO GONZALEZ AND
TRANSPORTES ROLESA, SA DE CV

OF COUNSEL:

Liliana Elizondo
State Bar No. 24078470
Federal ID No. 2979434
55 Cove Circle
Brownsville, Texas 78521
(956) 542-4377 (Telephone)
(956) 542-4370 (Facsimile)
E-Mail: liliana.elizondo@roystonlaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the above and foregoing document was filed electronically and forwarded via the CM/ECF Filing System, facsimile, Regular U.S. Mail, certified mail, return receipt requested and/or E-Mail to all known counsel of record on this 7th day of October 2022, as follows:

Humberto Tijerina
Cesar Palma
Derek I. Salinas
Gerardo L. Garcia, Jr.
TIJERINA LEGAL GROUP, P.C.
1200 South Colonel Rowe Blvd., Suite 4A
McAllen, Texas 78501

/s/ James H. Hunter, Jr.
Royston, Rayzor, Vickery & Williams, LLP